

ENTERED

July 12, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

MARIA MAGDALENA MARTINEZ-
TIJERINA

VS.

UNITED STATES OF AMERICA

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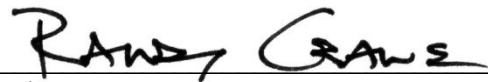
CIVIL ACTION NO. M-16-483
CRIMINAL ACTION NO. M-12-273-1

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which motion had been referred to the Magistrate Court for a report and recommendation. On May 26, 2018, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's Motion to Dismiss be **GRANTED**, Movant's § 2255 Motion be **DENIED**, and claims **DISMISSED** with prejudice, and that a Certificate of Appealability be denied upon the issuance of this Court's final order.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.¹ Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Respondent's Motion to Dismiss is **GRANTED**, Movant's § 2255 Motion is **DENIED**, and claims are **DISMISSED** with prejudice. A Certificate of Appealability is **DENIED**.

SO ORDERED this 12th day of July, 2018, at McAllen, Texas.



Randy Crane
United States District Judge

¹ "The advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.' " *Douglas v. United States Service Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)) *superseded by statute on other grounds by* 28 U.S.C. § 636(b)(1), *as stated in ACS Recovery Servs., Inc. v. Griffin*, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. Apr. 2, 2012).